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OO RUEHDBU RUEHLN RUEHPOD RUEHSK RUEHVK RUEHYG
DE RUEHMO #1362/01 1471344
ZNR UUUUU ZZH
O 271344Z MAY 09
FM AMEMBASSY MOSCOW
TO RUEHC/SECSTATE WASHDC IMMEDIATE 3500
INFO RUCNCIS/CIS COLLECTIVE PRIORITY
RUEHND/MOSCOW POLITICAL COLLECTIVE PRIORITY
RHEHNSC/NSC WASHDC PRIORITY

UNCLAS SECTION 01 OF 02 MOSCOW 001362

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [KDEM](#) [PHUM](#) [PINR](#) [KJUS](#) [RS](#)

SUBJECT: READING THE TEA LEAVES ON MEDVEDEV'S
CONSTITUTIONAL COURT INITIATIVE

1. (SBU) Summary: President Medvedev's May 16 proposal to change the way the head, deputy head and secretary of Russia's Constitutional Court are selected passed all three readings by the State Duma on May 20 and 22, received the approval of the Federation Council on May 27, and now appears headed for a quick enactment. While Medvedev's proposal ignited some speculation that Putin is preparing to return as president, our contacts downplay theories that Medvedev is creating a "soft landing" for himself when he leaves the presidency. End Summary.

2. (SBU) On May 16 Medvedev requested changes to the law governing the Constitutional Court that would have the Russian president propose and the Federation Council approve candidates for the head, deputy head and secretary of Russia's Constitutional Court and extended their term from three to six years. On May 20 the Russian State Duma passed on its first reading Medvedev's proposed changes on the Constitutional Court by a vote of 352 (United Russia and Just Russia) in favor, and 53 (KPRF) opposed. Deputies from Vladimir Zhirinovskiy's LDPR abstained. The Duma passed the proposed amendments on their second and third readings on May 22 by a similar 352-57 vote. On May 27 the Federation Council voted overwhelmingly (132 votes) in favor of Medvedev's proposal. United Russia's Vladimir Pligin, head of the Duma Committee for Constitutional Law, proposed on May 21 that the proposal could become law within 30 days after it is signed by Medvedev and published, but the law reported out of the Federation Council calls for the obligatory three-month period.

3. (U) Russia's Constitutional Court consists of 19 judges appointed by the Federation Council upon the nomination by the president. In early 2008 the GOR moved the entire court from Moscow to St. Petersburg. Under current law, the head of the court, the deputy chief judge and the court secretary are selected in a secret ballot by the entire body and serve three year terms. Under Medvedev's proposal, the president will nominate the three, subject to the approval of the Federation Council, and they will serve for six years. Pligin argued that it would set up a unified judicial system because the heads of Russia's other two main courts, the Arbitrazh Court and the Supreme Court, are both nominated by the president and approved by the Federation Council for six-year terms. Duma Chief Boris Gryzlov noted that the proposal would raise the status of the head of the Constitutional Court and that this system for appointing the head of the chief court is used in Germany, France and the United States.

4. (SBU) The KPRF's Sergey Obukhov, himself a former press secretary for the Constitutional Court during the 1990's, said that the proposal violated the Russian Constitution because it gave the executive branch too much influence on the judicial. The LDPR's Zhirinovskiy said that he and his colleagues would not support the amendments, but in the Duma votes LDPR's deputies did not vote against it. Legal experts

roundly criticized the proposal. Constitutional Court justice Gadis Gadzhiyev from Dagestan told the Kommersant Daily that the bill contradicts the principal of the independence of judicial power. (Note: Soon thereafter some commentators suggested that Gadzhiyev might be replaced by Kremlin-insider and deputy head of the Presidential Administration Larisa Brycheva). Retired Deputy Chief Judge Tamara Morshchakova, one of the authors of the 1993 Russian Constitution, likewise told Ekho Moskvii radio station earlier this month that the proposal would result in a "clear decrease in the level of democracy and the level of independence in the Constitutional Court."

Possible "Soft Landing for Medvedev?"

15. (SBU) Some in the Moscow commentariat were quick to jump on the proposed changes as a sign that Prime Minister Putin will return to the job of president that he held 2000-2008 with Medvedev shifting to the Constitutional Court. The fact that the unexpected proposal from Medvedev came less than one week after Putin told Japanese journalists that in 2012 he and Medvedev would decide who should run for president only served to fan the flames stirred up by conspiracy theorists. Nicolay Petrov from the Moscow Carnegie Center told reporters that the change in how the court's chief judge is selected would only be necessary if Medvedev steps down before his term as president ends in 2012. Members of the Constitutional Court re-elected current chief justice Valeriy Zorkin in February 2009 to another three-year term that will expire in 2012. The terms of the deputy chief judge and court secretary expire in 2011 and 2010, respectively.

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16. (SBU) However, most with whom we spoke were dismissive of the theory that Medvedev will step down as president to become the court's chief judge. Viktor Ilyukhin, the deputy head of the Duma's Committee on Government Structure, categorically denied that such was the plan, saying that there was no way Medvedev would become the head of the court because Medvedev will "run for a second term and easily be re-elected." Former independent analyst Olga Kryshtanovskaya who signed on as a consultant with United Russia in April told us May 22 that any talk of Medvedev leaving the presidency to become head of the Constitutional Court is "absurd." She added that the head of the Constitutional Court is a powerless position "akin to being the Russian ambassador to a small African country." Head of a Kremlin-tolerated opposition party Leonid Gozman told us it was ludicrous to think any special legal machinations would be needed to ensure the future selection of Medvedev to the court: "the judges would leap at the chance to show their loyalty." Gozman too did not view the sinecure as worthy of Medvedev's pursuit.

Comment

17. (SBU) The haste with which Medvedev's proposal sped through the Duma and Federation Council has raised eyebrows here and reinforced the tendency to view the legislation through the succession prism. While we are skeptical the move is part of a grand political plan, the nervous speculation within the chattering class reflects the general lack of clarity over Russian's political tandem.
BEYRLE